

FAMILIES HAVE RIGHTS

District of Columbia
Individuals with Disabilities Education Act (IDEA)
Part C Procedural Safeguards for Families



DC Early Intervention Program (DC EIP)
Division of Early Learning

**Office of the State Superintendent of Education
(OSSE)**

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Family Rights

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Office of the State Superintendent of Education (OSSE)

FAMILIES HAVE RIGHTS

The Individuals with Disabilities Education Act, Part C, provides safeguards for families to ensure that services and supports are provided in an appropriate, fair and responsive manner. The full text of these procedural safeguards is found in Title 34 of the Code of Federal Regulations (CFR), Part 303. Discussions of these safeguards are provided here for your convenience.

For questions or to find out more about your rights, contact:

- Your service coordinator;
- The person providing early intervention services to your child; or
- DC EIP Staff at (202) 727-3665 or osse.dceip@dc.gov.

FAMILIES HAVE THE RIGHT TO AN EVALUATION

Eligibility for early intervention is usually determined after evaluation of your child (under the age of three) who has been referred to DC EIP because of a concern about his or her development. (34 C.F.R. § 303.321(a)(1)) The evaluation must be done by a multidisciplinary team of two or more qualified specialists who administer an evaluation instrument and examine/review your child's history, development, current strengths and challenges, and medical, educational, and other records. (34 C.F.R. § 303.321(b)) If there is medical or other documentation already available that may establish eligibility, then an evaluation may not be necessary. (34 C.F.R. § 303.321(a)(3)(i)) If your child is found eligible for early intervention services, he or she will be referred for early intervention services and have an Individualized Family Service Plan (IFSP) developed. (34 C.F.R. § 303.342(a)) If your child is not found eligible, you will be notified in writing and will have

the right to disagree and resolve the dispute through mediation, a hearing, or the State Complaint process. (34 C.F.R. § 303.322)

ELIGIBLE FAMILIES HAVE THE RIGHT TO A COORDINATED PLAN WITHIN 45 DAYS OF INITIAL CONTACT

Each eligible child and family should have a meeting to develop a written plan – the Individualized Family Service Plan (IFSP) – for providing early intervention services. (34 C.F.R. § 303.310(a)) Among other things, the IFSP includes information about your family’s resources, priorities, and concerns for your child, if you agree to include such information. (34 C.F.R. § 303.344(b)) An IFSP review must occur every six months. (34 C.F.R. § 303.341(b)) However, families also have the right to request a meeting with the IFSP team at any time to review progress or discuss possible changes to the IFSP. An updated assessment must be completed annually.

Among other things, the IFSP also includes the child’s current levels of development; the measurable outcomes targeted for your child; how progress will be measured; what and where services will be provided; when services will begin; and how services will be paid. (34 C.F.R. § 303.344) Additionally, the IFSP includes plans for transition to preschool or an early childhood program that meets your child’s needs. (34 C.F.R. §§ 303.344(h) and 303.209) Transition planning discussions will occur at reviews and annual IFSP meetings. Transition requirements must be completed by the time your child is three years old. (34 C.F.R. § 303.209(f))

Services listed on the IFSP should be provided to the child as soon as possible after the parent provides consent, which normally is within 30 days of the parent’s signature on the IFSP. (34 C.F.R. § 303.342(e))

ELIGIBLE FAMILIES HAVE THE RIGHT TO A SERVICE COORDINATOR

Your child's IFSP will include the name of the service coordinator who will assist your child and family with receiving the early intervention services included in the IFSP. (34 C.F.R. § 303.344(g)) For example, your service coordinator will keep track of the services your child receives and, if needed, coordinate with service providers and other relevant parties to ensure your child receives the services identified in the IFSP. Your service coordinator is also a resource for questions you may have about your rights and procedural safeguards provided by DC EIP.

FAMILIES HAVE THE RIGHT TO PRIVACY

Generally speaking, records containing personally identifiable information about your child or family cannot be disclosed to anyone without prior written consent by a parent of the child. However, disclosure of such information without parental consent is permitted where allowed under the Individuals with Disabilities Education Act (IDEA) or the Family Educational Rights and Privacy Act (FERPA). Disclosure without parental consent is also allowed to the authorized representatives, officials, and employees of participating agencies collecting, maintaining, or using this information for purposes of meeting a requirement of IDEA Part C. (34 C.F.R. § 303.414)

FAMILIES HAVE THE RIGHT TO CONSENT

Your consent or permission must be obtained in writing before a screening, evaluation, or assessment is conducted. Your consent must also be given before early intervention services can begin. (34 C.F.R. § 303.420(a)) You can choose not to give consent for a particular service, evaluation or assessment, or you can change your mind about accepting a service,

evaluation, or assessment without affecting other early intervention services. (34 C.F.R. § 303.420(d)) When being asked for your consent, you must also be informed in writing of all records (if any) that will be released and to whom these records will be released, and you have the option to object to the disclosure. (34 C.F.R. § 303.7) Objections to the disclosure of your child's records or information should be made in writing.

FAMILIES HAVE THE RIGHT TO REVIEW THEIR RECORDS

You may inspect and review any early intervention records relating to your child, including evaluations and assessments; eligibility determinations; development and implementation of IFSPs; individual complaints regarding your child; and any other Early Intervention records concerning your child and family that are collected, maintained, or used by the Strong Start Program. (34 C.F.R. §303.401(b)(2)) You may also request a copy of any records. DC EIP and your child's service provider(s) must comply with your request without unnecessary delay, and before any meeting regarding your child's IFSP or any hearing about your child regarding Part C, and in no case more than ten days after the request has been made. (34 C.F.R. § 303.405) DC EIP must also keep a record of anyone who looks at your child's file, unless it is a parent or authorized representatives, or employees of DC EIP. This record shall include the name of the party, the date access was given, and the purpose for which the person is authorized to use the records. (34 C.F.R. § 303.406) DC EIP or the service provider is allowed to charge a fee for copies, if the fee does not effectively prevent you from exercising your right to inspect and review those records. DC EIP, however, must provide at no cost to parents an initial copy of the child's early intervention record. 34 C.F.R. § 303.400(c). Additionally, parents are entitled to a free copy of each evaluation, assessment, and IFSP as soon as possible after each IFSP meeting. (34 C.F.R. § 303.409) DC EIP is not allowed to charge a fee to search for or

retrieve information in your child's records. (34 C.F.R. § 303.409)

FAMILIES HAVE THE RIGHT TO AMEND RECORDS CONCERNING THEIR CHILD AND FAMILY

If you believe that information in your child's early intervention record is inaccurate, misleading, or violates the privacy or other rights of your child or you, you may request that DC EIP amend the information. DC EIP shall decide whether to amend the information within a reasonable period of time of receipt of the request. If DC EIP refuses to amend the information in accordance with your request, DC EIP must inform you of the refusal and advise you of your right to request and receive a hearing to address the disagreement. (34 C.F.R. § 303.410)

FAMILIES HAVE THE RIGHT TO WRITTEN PRIOR NOTICE

You must receive prior written notice within a reasonable time (at least five working days) before DC EIP or a service provider proposes, or refuses, to initiate or change the identification, evaluation or placement of your child, or the provision of early intervention services to your child or family. This notice must give details of the proposed decision/action and any reasons for the decision/action. It must also inform you of your rights and complaint procedures in the District of Columbia, including information on requesting mediation and filing a State complaint and a due process complaint. This notice must be written in a way that is easily understood by the general public and provided in your primary language, or other mode of communication used by you. (34 C.F.R. § 303.421)

FAMILIES HAVE THE RIGHT TO BE PROVIDED INFORMATION THAT IS UNDERSTANDABLE

DC EIP does not discriminate on the basis of race, culture, religion, or disability, among other things. You have the right to receive early intervention information, including notices, in a way that you can understand. Notices must be written in a way that is understandable to the general public. If English is not your primary language, you have the right to receive information in your primary language, unless it is clearly impossible to do so. If you use another method of communication, such as sign language or Braille, you have the right to receive information in that way. You have the right to have the prior written notice read and explained to you, so that you can understand it better. (34 C.F.R. § 303.421(2))

FAMILIES HAVE THE RIGHT TO DISAGREE

You have the right to receive prior written notice of and disagree about any action proposed, taken or refused by DC EIP or a service provider to initiate or change the identification, evaluation, or placement of your child or the provision of early intervention services to your child or family. (34 C.F.R. § 303.421) If you disagree, the law provides for a timely resolution of the disagreement by one of these methods:

- File a formal State complaint with the Office of the State Superintendent of Education (OSSE);
- Request a Mediation;
- Request an impartial Due Process hearing.

(34 C.F.R. § 303.430) Also, you are always encouraged to speak with your provider(s) and/or DC EIP staff to discuss your concerns or disagreements.

In addition, DC EIP or your service provider(s) can seek a timely resolution of any disagreement with you by the same methods listed above.

Mediation is voluntary on the part of all parties and is conducted by a qualified, impartial mediator. (34 C.F.R. § 303.431(b)) Any matter concerning early intervention services can be mediated.

Due process hearings are conducted by impartial hearing officers knowledgeable about early intervention. (34 C.F.R. § 303.443(c)) A parent involved in a due process hearing has the right to be accompanied and advised by a lawyer and/or by other individuals knowledgeable about early intervention services; present evidence and confront, cross-examine, and compel the attendance of witnesses; prevent the introduction of evidence at hearing that has not been disclosed to the parent at least five days before the hearing; obtain a transcript of the hearing at no cost; and receive a written copy of the hearing officer's findings and decisions at no cost. (34 C.F.R. § 303.444) If you, DC EIP, or your service provider(s) request a due process hearing, you have the right to be informed of any free or low- cost legal and other relevant services available in this area to assist you. (34 C.F.R. § 303.440(b)) You also have a right to this information, just by asking, regardless of whether you request a hearing. Any decision made in a hearing is final, unless you, DC EIP, or your service provider(s) appeal the decision in a State or federal court of competent jurisdiction. (34 C.F.R. §303.446(a))

The State Complaint process is administered by the State Complaint Office at OSSE. If you file a formal State complaint against DC EIP or one of your child's providers, OSSE has 60 calendar days to:

- Complete an independent investigation;

- Allow the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- Allow DC EIP or the service provider an opportunity to respond to the complaint;
- Review all relevant information and make an independent determination as to whether the DC EIP or the service provider is violating a requirement of Part C of the Individuals with Disabilities Education Act; and
- Issue a written decision to you that addresses each allegation in the complaint and also contains:
 - (i) findings of facts and conclusions; and
 - (ii) the reasons for the final decision.

(34 C.F.R. § 303.433(a)) While a disagreement is being resolved through any of the three methods listed above, your child will continue to receive early intervention services, unless you and the service provider(s) agree otherwise. (34 C.F.R. § 303.430(e))

To contact:

Local Program Director

Jasmyn Price

Strong Start DC Early Intervention Program (DC EIP)

3230 Pennsylvania Ave. SE, Suite 201

Washington, DC 20020

Phone: (202) 270-4482

Email: Jasmyn.Price@dc.gov

State Part C Director

Andres Alvarado

Office of the State Superintendent of Education

1050 First St. NE, Sixth Floor

Washington, DC 20002

Phone: (202) 727-5853

Email: Andres.Alvarado@dc.gov

To request mediation or to learn more about mediations, contact:

Office of the State Superintendent of Education

Office of Dispute Resolution

1050 First Street, NE, Fourth Floor

Washington, DC 20002

Phone: (202) 698-3819

Email: hearing.office@dc.gov

Website:

<https://osse.dc.gov/service/special-education-mediation>

To request a due process hearing or to learn more about due process hearings, contact:

Office of the State Superintendent of Education

Office of Dispute Resolution

1050 First Street, NE, Fourth Floor

Washington, DC 20002

Phone: (202) 698-3819

Email: hearing.office@dc.gov

Website:

<https://osse.dc.gov/service/request-due-process-hearing>

To file a formal State complaint or to learn more about State complaints, contact:

Office of the State Superintendent of Education

Division of Systems and Supports, K-12, State Complaint Office

1050 First Street, NE, Fifth Floor

Washington, DC 20002

Phone: (202) 727-6436

Email: osse.IDEAstatecomplaints@dc.gov

Website:

<https://osse.dc.gov/service/specialized-education-state-complaints>

OUR MISSION

The mission of the ***Strong Start*** DC Early Intervention Program is to identify and serve infants and toddlers, birth through two years, with developmental delays and disabilities and their families. We coordinate services in a caring manner that supports the culture and meets the needs of families.



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